
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Petitioner,
v.
CORY JON WALTERS,
Respondent.

REPORT AND RECOMMENDATION
Case No. 2:08cv30
District Judge Bruce S. Jenkins
Magistrate Judge Paul M. Warner

On January 9, 2008, the United States of America (the “United States”) filed a petition¹ (the “Petition”) to enforce two IRS Summonses (“the Summonses”) issued on June 22, 2007, to Cory Jon Walters (“Respondent”) pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). *See* 26 U.S.C. §§ 7402(b), 7604(a). On January 10, 2008, Judge Bruce S. Jenkins issued an Order to Show Cause² (“OTSC”), which referred this matter to Magistrate Judge Paul M. Warner for a hearing scheduled for March 5, 2008.

The OTSC directed Respondent to file a written response to the Petition, supported by sworn affidavits, within ten (10) days of the OTSC being served upon him. The OTSC also directed this court to convene a hearing on March 5, 2008, at 10:00 a.m. to determine whether Respondent has shown cause for his failure to comply with the Summonses.

¹ *See* docket no. 1.

² *See* docket no. 2.

On February 11, 2008, Respondent filed a document with this court stating that he did not contest enforcement of the Summons and did not desire to appear at the March 5, 2008 hearing.³

Based on the arguments and representations presented in the Petition and in Respondent's February 11, 2008 filing, the court **VACATES** the March 5, 2008 hearing. The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United States has established that: (1) it sought the summoned information for a legitimate purpose; (2) the summoned information is relevant to the legitimate purpose; (3) the summoned information was not already in its possession; and (4) it followed proper administrative procedures. Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Respondent does not contest the enforcement of the Summons.

Consequently, **IT IS HEREBY RECOMMENDED THAT:**

1. The district court find that Respondent has failed to show cause why he should not be compelled to comply with the Summons.

³ See docket no. 3.

2. The district court order Respondent to provide the information required by the Summons to the IRS⁴ no later than twenty (20) days after the district court adopts this report and recommendation.

Copies of the foregoing report and recommendation are being sent to the parties, who are hereby notified of their right to object. The parties are further notified that they must file any objections to the report and recommendation with the clerk of the district court within ten (10) days after receiving it. *See* 28 U.S.C. § 636(b)(1)(C). Failure to file objections may constitute a waiver of those objections on subsequent appellate review.

IT IS SO ORDERED.

DATED this 25th day of February, 2008.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

⁴ For the convenience of the Respondent, the IRS offices are located at 50 South 200 East, Salt Lake City, Utah 84111.